

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

DANIEL FRYE et al.,)	
)	
Plaintiffs,)	Case No.: 1:20-cv-00751 SM
)	
vs.)	
)	
WILLIAM M. GARDNER, in his official)	
capacity as the Secretary of State of New)	
Hampshire et al.,)	
)	
Defendants.)	
)	

**ASSENTED-TO MOTION TO DISMISS WITHOUT PREJUDICE AND
RETAIN JURISDICTION TO ENFORCE SETTLEMENT AGREEMENT**

Pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure, Plaintiffs request that the Court dismiss this action without prejudice consistent with the terms of the Parties' settlement agreement and retain jurisdiction for the purpose of enforcing the settlement agreement. This motion is based on the following:

1. Plaintiffs commenced this action seeking preliminary and permanent relief in July 2020, alleging that certain elements of the Defendants' absentee registration and voting program as well as election- and voting-related portions of Defendants' website violate Title II of the Americans with Disabilities Act of 1990 ("ADA") and Section 504 of the Rehabilitation Act of 1973 ("Rehabilitation Act") (the "Action"). (ECF No. 1)
2. On August 28, 2020, the parties entered into a Final Term Sheet in order to resolve the issues presented in the Plaintiffs' Motion for Preliminary Injunction in the Action. (ECF No. 29) The remaining issues in the Action arise from the Plaintiffs' Second Amended Complaint filed on March 4, 2021. (ECF No. 57)

3. The Parties have executed a settlement agreement (“Agreement”) resolving all remaining issues in this Action. The Agreement contemplates, among other things, that the Defendants will undertake certain actions to be completed in or before 2023. The Agreement is attached as Exhibit A and incorporated herein by reference.

4. As reflected in the Agreement, the Parties desire that the Court dismiss the case without prejudice and retain jurisdiction solely to enforce the Agreement, if necessary.

5. Attached as Exhibit B for the Court’s convenience is a proposed order dismissing the case and retaining jurisdiction to enforce the terms of the Agreement.

6. Defendants assent to the relief requested in this motion. L.R. 7.1(c).

WHEREFORE, Plaintiffs respectfully request the Court:

- A. Order that it retains jurisdiction to enforce the Agreement; and
- B. Dismiss the action without prejudice on terms consistent with the Agreement.

Respectfully submitted,

DISABILITY RIGHTS CENTER-
NEW HAMPSHIRE, INC.

Dated: October 5, 2021

By: /S/ Pamela E. Phelan
Pamela E. Phelan (#10089)
Pamelap@drcnh.org
(603) 491-4157 (mobile number)
James Ziegler (#20689)
64 North Main Street, Ste. 2
Concord, NH 03301
(603) 228-0432 (general office number)
(603) 225-2077 (general office fax number)

Gregory P. Care (*pro hac vice*)
gpc@browngold.com
(443) 534-5641 (mobile number)
BROWN, GOLDSTEIN & LEVY, LLP
120 East Baltimore Street, Suite 1700
Baltimore, Maryland 21202
(410) 962-1030 (general office number)
(410) 385-0869 (general office fax number)

CERTIFICATE OF SERVICE

I certify that a copy of Assented-to Motion to Dismiss Without Prejudice and Retain Jurisdiction to Enforce Settlement Agreement was served on all counsel of record via ECF.

/S/ Pamela E. Phelan
Pamela E. Phelan